

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF WATER RIGHTS  
JULY 23, 2013**

**ITEM 6**

**SUBJECT**

MEMORANDUM OF UNDERSTANDING BETWEEN THE FEDERAL ENERGY REGULATORY COMMISSION AND THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD CONCERNING COORDINATION OF PRE-APPLICATION ACTIVITIES FOR NON-FEDERAL HYDROPOWER PROPOSALS

**DISCUSSION**

The Federal Energy Regulatory Commission (Commission) is responsible for issuing licenses for non-federal hydropower projects. The State Water Resources Control Board (State Water Board) is responsible for issuing water quality certifications for these hydropower projects with conditions necessary to ensure compliance with the Clean Water Act and appropriate requirements of State law. The water quality certification conditions become conditions of the Commission's license once issued.

The State Water Board and the Commission prepared a [draft memorandum of understanding \(MOU\)](#) to establish principles that the staffs of each agency would adhere to in the coordination of pre-application activities in the licensing of hydropower projects. The ultimate goal is to enhance coordination activities early in the licensing or relicensing process for hydropower projects, leading to timelier issuance of water quality certifications and licenses. Timelier issuance of water quality certifications and licenses will result in earlier implementation of the conditions outlined in the water quality certifications. These will better protect the beneficial uses and water quality associated with the licensed projects.

State Water Board staff actively participates in the Commission's licensing process. The draft MOU addresses this participation and identifies additional opportunities for coordination. Pre-application activities targeted under the draft MOU include: State Water Board participation in the Commission's environmental scoping process; aligning regulatory deadlines to create a joint project-specific schedule for the two agencies; active participation in study plan development; and, to the extent feasible, submittal of comments on the draft license application and identification of any specific environmental analyses needed to issue water quality certification.

This draft MOU is limited to pre-application activities due to the Commission's rules that apply after a license application is filed and the State Water Board's independent role as the state water pollution control agency for purposes of the Clean Water Act and any other federal act. While the draft MOU focuses on pre-application activities, it also identifies potential opportunities for coordination on post-filing activities. The Commission and the State Water Board will attempt to identify a project or projects where a single, cooperative environmental document can be issued that, to the extent possible, satisfies the requirements of the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA). Preparation of a joint environmental document is not, however, the focus of this draft MOU.

The State Water Board will continue to work with the Commission to look for additional processes or opportunities to enhance coordination and enhance the timelines associated with issuance of water quality certifications and licenses.

#### **POLICY ISSUE**

The draft MOU does not change the obligations, authority, or requirements of the State Water Board or the Commission when certifying or licensing hydropower projects. Rather, the draft MOU provides a formal framework for coordination of pre-application activities associated with the licensing of hydropower projects.

#### **FISCAL IMPACT**

None at this time; informational item. While initial implementation of the MOU will likely result in a shift in resources, over the long-term implementation of the MOU should create efficiencies and result in timelier issuance of water quality certifications and licenses.

#### **REGIONAL BOARD IMPACT**

None at this time; informational item.

#### **STAFF RECOMMENDATION**

None at this time; informational item.

State Water Board action on this item will assist the Water Boards in reaching Goals 4 and 6 of the Strategic Plan Update: 2008-2012 to: comprehensively address water quality protection and restoration, and the relationship between water supply and water quality, and describe the connections between water quality, water quantity, and climate change, throughout California's water planning process (Goal 4); and enhance consistency across the Water Boards, on an ongoing basis, to ensure our processes are effective, efficient, and predictable, and to promote fair and equitable applications of laws, regulations, policies, and procedures (Goal 6).